

LEGISLATIVE BILL 466

Passed over the Governor's veto April 9, 1984

Introduced by Constitutional Revision and Recreation
Committee, Labedz, 5, Chairperson; Carsten,
2; Fowler, 27; Jacobson, 33; Rupp, 22;

AN ACT to amend sections 37-430 to 37-432 and 77-27,132,
Reissue Revised Statutes of Nebraska, 1943,
relating to game and parks; to state intent; to
provide for the protection of certain species;
to create a fund; to provide for contributions
from tax refunds as prescribed; to harmonize
provisions; and to repeal the original sections.
Be it enacted by the people of the State of Nebraska,

Section 1. That section 37-430, Reissue Revised
Statutes of Nebraska, 1943, be amended to read as follows:

37-430. Sections 37-430 to 37-438 and section 2
of this act shall be known and may be cited as the The
Nongame and Endangered Species Conservation Act.

Sec. 2. The Legislature hereby declares that
nongame, threatened, and endangered species have need of
special protection and that it is in the public interest to
preserve, protect, perpetuate, and enhance such species of
this state through preservation of a satisfactory
environment and an ecological balance. The purpose of this
act is to provide a means by which such protection may be
financed through a voluntary checkoff designation on state
income tax return forms. The intent of the Legislature is
that the program of income tax checkoff is supplemental to
any funding and in no way is intended to take the place of
the funding that would otherwise be appropriated for such
purpose.

Sec. 3. That section 37-431, Reissue Revised
Statutes of Nebraska, 1943, be amended to read as follows:

37-431. As used in ~~sections 37-430 to 37-438~~ the
Nongame and Endangered Species Conservation Act, unless
the context otherwise requires:

(1) Conservation shall mean the use of all
methods and procedures for the purpose of increasing the
number of individuals within species and populations of
wildlife up to the optimum carrying capacity of their
habitat and maintaining such levels. Such methods and
procedures include, but are not limited to, all activities
associated with scientific resources management such as
research, census, law enforcement, habitat acquisition and
maintenance, propagation, live trapping, transplantation,
regulated taking, and the periodic or total protection of
species or populations;

(2) Commission shall mean the Game and Parks Commission;

(3) Ecosystem shall mean a system of living organisms and their environment, each influencing the existence of the other and both necessary for the maintenance of life;

(4) Endangered species shall mean any species of wildlife or wild plants whose continued existence as a viable component of the wild fauna or flora of the state is determined to be in jeopardy, or any species of wildlife or wild plants which meets the criteria of the Endangered Species Act;

(5) Endangered Species Act shall mean the Endangered Species Act of 1973, 87 Stat. 884;

(6) Nongame species shall mean any species of mollusks, crustaceans, or vertebrate wildlife not legally classified as game, game bird, game animal, game fish, furbearer, threatened species, or an endangered species by statute or regulation of this state;

(7) Optimum carrying capacity shall mean that point at which a given habitat can support healthy populations of wildlife species, having regard to the total ecosystem without diminishing the ability of the habitat to continue that function;

(8) Person shall mean an individual, corporation, partnership, trust, association, or any other private entity; or any officer, employee, agent, department, or instrumentality of the federal government, any state or political subdivision thereof, or any foreign government;

(9) Species shall mean any subspecies of wildlife or wild plants and any other group of wildlife of the same species or smaller taxa in common spatial arrangement that interbreed when mature;

(10) Take shall mean to harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, or collect;

(11) Threatened species shall mean any species of wild fauna or flora which appears likely to become endangered, either by determination of the commission or by criteria provided by the Endangered Species Act; and

(12) Wildlife shall mean any member of any nondomesticated species of the animal kingdom, whether reared in captivity or not, including any mammal, fish, bird, amphibian, reptile, mollusk, crustacean, arthropod, or other invertebrate; and includes any part, product, egg, or offspring thereof; or the dead body or parts thereof.

Sec. 4. That section 37-432, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows: 37-432. The Legislature finds and declares:

(1) That it is the policy of this state to conserve species of wildlife for human enjoyment, for scientific purposes, and to insure their perpetuation as

viable components of their ecosystems;

(2) That species of wildlife and wild plants normally occurring within this state which may be found to be threatened or endangered within this state shall be accorded such protection as is necessary to maintain and enhance their numbers;

(3) That this state shall assist in the protection of species of wildlife and wild plants which are determined to be threatened or endangered elsewhere pursuant to the Endangered Species Act by prohibiting the taking, possession, transportation, exportation from this state, processing, sale or offer for sale, or shipment within this state of such endangered species and by carefully regulating such activities with regard to such threatened species. Exceptions to such prohibitions, for the purpose of enhancing the conservation of such species, may be permitted as set forth in sections 37-430 to 37-438; and

(4) That any funding for the conservation of nongame, threatened, and endangered species shall be made available to the commission from General Fund appropriations, the Nongame and Endangered Species Conservation Fund created in section 7 of this act, or other sources of revenue not deposited in the State Game Fund.

Sec. 5. That section 77-27,132, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

77-27,132. (1) There is hereby created a fund to be designated Tax Refund Fund which shall be set apart and maintained by the State Treasurer for prompt payments of all tax refunds under the provisions of sections 66-461, 77-2106, and 77-2701 to 77-27,135 and transfers to the Nongame and Endangered Species Conservation Fund pursuant to sections 6 and 7 of this act. Such fund shall be in such amount as the State Treasurer, with the advice of the Tax Commissioner, shall determine is necessary to meet current refunding requirements under the provisions of sections 66-461, 77-2106, and 77-2701 to 77-27,135. Any money in the Tax Refund Fund available for investment shall be invested by the state investment officer pursuant to ~~the provisions of~~ sections 72-1237 to ~~72-1259~~ 72-1269.

(2) The Tax Commissioner shall pay to a depository bank designated by the State Treasurer all amounts collected under ~~the provisions of~~ sections 77-2701 to 77-27,135. The Tax Commissioner shall present to the State Treasurer bank receipts showing amounts so deposited in the aforementioned bank and of the amounts so deposited the State Treasurer shall (a) first credit to the Tax Refund Fund such amounts as are necessary to maintain such Tax Refund Fund at the level required by subsection (1) of this section, and (b) then credit to the Highway Allocation Fund all of the proceeds of the sales and use taxes derived from motor vehicles, trailers, and semitrailers. The

balance of the amounts so paid shall be credited to the General Fund.

Sec. 6. The Tax Commissioner shall include on the individual income tax return form space in which the individual taxpayer may, if a refund is due, designate one dollar, five dollars, ten dollars, or a greater amount of such refund as a contribution to the Nongame and Endangered Species Conservation Fund created in section 7 of this act. If the income tax return is a joint return, space shall be included for each spouse to make such designation.

Sec. 7. There is hereby created the Nongame and Endangered Species Conservation Fund which shall be used to assist in carrying out the Nongame and Endangered Species Conservation Act and to pay any expenses incurred by the Department of Revenue or any other agency in the administration of the income tax designation program required by section 6 of this act. Money shall be transferred into such fund from the Tax Refund Fund by the State Treasurer in an amount to be determined by the Tax Commissioner which shall be equal to the total amount of contributions designated pursuant to section 6 of this act. Any money in the Nongame and Endangered Species Conservation Fund available for investment shall be invested by the state investment officer pursuant to sections 72-1237 to 72-1269.

Sec. 8. That original sections 37-430 to 37-432 and 77-27,132, Reissue Revised Statutes of Nebraska, 1943, are repealed.